THE HON'BLE SRI JUSTICE
GODA RAGHURAM

W.P.No. 13724 of 2007

02-07-2007

Between:

Mohd. Basheer Khan

Petitioner

And

The District Collector, Hyderabad District
(Land Acquisition),
Nampally Road, Hyderabad and another.

Respondents

THE HON'BLE SRI JUSTICE
GODA RAGHURAM

W.P.No. 13724 of 2007

Oral Order:

The singular complaint in this writ petition is that the respondents have unlawfully dispossessed the petitioner from the land in an extent of 244 Square yards in plot bearing No.5 and House bearing No. 8-1-40/A/5 of total extent of 488 square yards situated at Samatha colony, Tolichowki, Shaikpet, Hyderabad. The petitioner asserts to be owner of the property under a registered document No. 1909/98 dated 07-09-1998.

According to the petitioner, in 2003 the respondents

without issuing any notification under Section 4 (1) of the Land Acquisition Act, 1894 (for short 'the Act') took possession unlawfully of his land in an extent of 244 square yards for road widening. Neither were there any proceedings initiated under the Act nor any efforts made even after such dispossession for payment of compensation under the Act or under any other law. The petitioner submitted a representation dated 26-05-2007 to the respondents for payment of compensation at the rate of Rs.20,000-00 per square yard for 244 square yards i.e., Rs.24,41,000-00 plus 30% solatium and interest thereon and penal interest at 6% per annum from the date of illegal possession. So far nothing has been done. Hence the writ petition.

Though the petitioner chooses to characterize the alleged action by the respondents as acquisition of land, it is not so. Acquisition of land is a formal act of a State or an instrumentality of the State under some operative legislation. In a case where proceedings are initiated under the Act, a draft notification under Section 4 (1) of the Act is to be issued followed by a draft declaration under Section 6 of the Act. This involves administrative and financial arrangements such as identification of land and provision of funds and in case it is an authority other than the State such as a local authority, the deposit of funds by the local authority with the State for the purpose of payment of compensation eventually. Even if the

acquisition is under the provisions of any other law, a formal process of acquisition has nevertheless to be initiated.

Illegal dispossession by a person holding a public office is not a recognized mode of acquisition of property under any law that is brought to the notice of this Court. If the allegation of the petitioner were true then it is a case of sane person holding a public office abusing such office and under the colour of such office physically transgressing and depriving a citizen's property. Such a conduct amounts to criminal trespass under the Penal Code or would constitute some other offence of a cognizable offence. Even where a person holding a public office actively pursues the process of committing cognizable offence, citizens are not without remedy. They may exercise the right of private defence, they may complain to the police against such official and seek police protection and in case of grave provocation, they may even seek for grant of an arms license to protect their property including from a public official who has a demonstrable proclivity to transgresses the law and under a mere colour of office attempts to dispossess citizen from property. There is also another forum to get redressal of the grievance viz., approaching the jurisdictional civil Court for injunctive or declaratory relief. In the context of availability of such a rich plurality of alternative remedies, approaching this Court under Article 226 of the

Constitution of India complaining of illegal dispossession by an unnamed and unidentified public official and more than four years after the event is not appropriate.

On the aforesaid analysis, the writ petition is dismissed. The petitioner is however at liberty to pursue the appropriate remedies as are available under law. No costs.

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GODA RAGHURAM, J

Dated: 02-07-2007
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